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Urban Affairs Committee
January 29, 2008

[LB984 LB997 LR229CA]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 29, 2008, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB984, LB997, and LR229CA. Senators present: Mike Friend, Chairman; Amanda McGill, Vice Chairperson; Abbie Cornett; Ray Janssen; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None.

SENATOR FRIEND: (Machine malfunction)...1510. If you're looking for Education, you're in the wrong spot again--something more fun--you're in the wrong spot. Quickly, I'll go through some introductions and then...Senators have bills and other things that they're doing, so they come and go. Don't take any offense to that, but...to my right, Senator Amanda McGill, from Lincoln. She's the Vice Chair of the committee. To my direct or immediate right is Bill Stadtwald. He's the legal counsel to the Urban Affairs Committee. I'm from District 10 in northwest Omaha. My name is Mike Friend. To my left is Beth Dinneen. She's the committee clerk, and to her left is Abbie Cornett, Senator Abbie Cornett. Abbie is from Bellevue. Senator Kent Rogert is on the far left. Kent is from Tekamah. And Senator Ray Janssen has joined us. Ray is sitting down in front of his cupcake right now. We would like to thank Kathleen Dolezel. We have some brownies here. Kathleen is from the Governor's Policy Research Office. Thank you for those. The cupcakes, which none of you in the audience have are from Bellevue. So I'm going to wait till everybody eats one, and then (laugh), find out how everything went, and then we'll go from there. (Laughter) All jokes aside, if you could silence those cell phones and pagers in the hearing room, we'd appreciate it. Everything is transcribed. Those wishing to testify on a bill, if you could make your way to the front of the room when you're getting ready, when someone finishes testifying you'll be next to move in there. If you don't wish to testify but you'd like to have your name entered into the official record as being present at the hearing, there's a form by the door. Everybody that's going to testify has to fill out a green copy, a green form. Please print your name, spell it how you want it to read in its entirety. When you do come up here to testify, you spell your last name for the record, state your first name and last name. And spell your last name for the record so the transcribers can get that. If you don't do it, I'll stop you and we can go back and then you can do it. If you have any handout material--I almost messed it up--Molly Keenan is from North Platte. She's a marketing major from University of Nebraska-Lincoln, and she would be happy to distribute that material for you. If you don't wish to testify or you'd like to submit something in writing to be put on the record, go ahead and drop that off also with the page, and we'll read that into the official record. And no vocal displays of support or opposition to any bills, please. I don't think we'll have that problem today, but sometimes you never know. With that, I think we will get started. Senator Cornett is here, and she has the first bill. That is LB what? LB984. Thank you. Senator Lathrop has just joined the committee. Senator Lathrop is from Omaha. [LB984]

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SENATOR CORNETT: Good afternoon, Chairman Friend and members of the Urban Affairs Committee. For the record, my name is Abbie Cornett. I represent the Legislative District 45, and I'm here to introduce LB984. LB984 amends Section 16-117 to change the procedures for annexation by cities of the first class. The bill removes the steps in the annexation process that the cities of the first class have to follow, but other classes of municipalities do not have to follow. These steps are needed to adopt the resolution, hold a hearing, and develop a plan for extension of city services. LB984 makes the annexation process for cities of the first class the same as for cities of the second class, and villages, and similar to the cities of the metropolitan class and primary class. LB984 does not change the requirement that a city of the first class adopt an annexation proposal by ordinance at a public meeting, after notice. The planning commission must review the annexation proposal and make a recommendation to the city council before the council can take action on the proposal. The requirement that the ordinances be read at three meetings on three different days prior to adoption cannot be waived for annexation ordinance, Section 16-404. LB984 equalizes the process for annexation for all classes of municipalities. Thank you for your time and consideration of LB984. There will be people following me to testify to this issue. [LB984]

SENATOR FRIEND: Thank you, Senator Cornett. Are there questions from committee members for Senator Cornett. Seeing none, thanks for the opening. The committee has been joined by Senator White. Senator White is from Omaha, a little bit east of me. Can we start with proponents, obviously, for LB984, those in favor of LB984? Welcome. If you could state your name and spell it for the record. [LB984]

DAN HOINS: (Exhibit 1) Are we live? Thank you, Mr. Chairman and members of the committee. My name is Dan Hoins, H-o-i-n-s. I'm the city administrator in the city of Papillion, Nebraska, here to testify in support of LB984 this afternoon. I'm not sure if the handouts made their way around the table yet, but as they do, I would just point out that I think this legal-sized sheet is probably the most descriptive of the state of affairs that first-class cities deal with today. The annexation procedures on the left primarily is a checklist that we use in the city of Papillion when we do our annexations, and we went through and did our own analysis on what is required of metropolitan-class cities, primaries, and second-class cities, and then detailed that on this sheet for you. So if you look at that, again, I think that's the macro view of what first-class cities are currently required to do, compared to other classes of cities. Attached to that legal-sized sheet there is also a map, and this just confirms the information, or reconfirms the information I've provided to you, that actually attaches a time line to how long it takes a certain city in a certain class to complete a particular annexation. The purpose of this request from first-class cities in particular, is to equalize the annexations across municipalities of the first and second class. As Senator Cornett stated, it does equalize the process and makes it similar between the first-class and the second-class cities and makes it similar to the metro-class cities. I think it's important maybe, for the committee to know that the United Cities of Sarpy County have recently formed coalition of mayors that represent

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about 100,000 people in the Sarpy County area. This was a piece of legislation that they voted unanimously to support and bring forward to the committee. There are several key differences, but I won't go over those. I'll save the time for questions that you may have. I think it's rather self-explanatory, but I'd also like to add that the League of Municipalities supported this legislation through their legislative process. So I'm certainly available to answer any questions on the handouts or the purpose, for any of the committee members. [LB984]

SENATOR FRIEND: Thank you, Mr. Hoins. Are there questions from committee members for Mr. Hoins? Say Dan, just a quick one. Can I ask you to guess, what do you think would have happened, just for fun for a second, what do you think would have happened if Elkhorn would have had the capability that maybe a second-class city would have had? I mean, would that have changed the whole complexion of that discussion in Omaha? And I'm not saying that it should have. What I'm saying is, in your expert opinion, what if they were a second-class city? How much would that have changed that scenario in that community and the, you know, the whole end result, do you think? I mean,... [LB984]

DAN HOINS: I think, Senator, it may have made the process more fair, and that's all we're asking for. I think they would have been on more equal footing. And, I believe, if you read that case and again--I'm not an attorney, but one of the key issues in that decision as I read it was the timing of that annexation was key and critical, that Omaha was able to complete that in a much more rapid manner than the city of Elkhorn was. And of course the city of Elkhorn was bound by that left side of the column that I handed out here, and you saw what Omaha was bound by in the process. [LB984]

SENATOR FRIEND: Interesting. Senator Lathrop [LB984]

SENATOR LATHROP: On that same subject, though, and I'm certainly not an expert on the annexation of Elkhorn, but they could have defeated it if they could have run down the Maple Street and picked up Waterloo before the city of Omaha captured them. [LB984]

DAN HOINS: Are you talking, Senator, in terms of expanding their population to over 10,000? [LB984]

SENATOR LATHROP: Their population. Wasn't there an opportunity for them, if they could have annexed more quickly a certain population, they would have avoided being annexed by the city of Omaha? [LB984]

DAN HOINS: And I think they actually tried that with some subdivisions. I don't know if they did get there, but they did annex several subdivisions in an attempt to get over 10,000. And I'm not really that familiar with the specifics of the case, but I think your

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concept is correct. [LB984]

SENATOR LATHROP: So the one thing that existing law does do is it allows the cities of the metropolitan class to have a jump on somebody they're going to try to annex before they can go annex their way up to above a 10,000... [LB984]

DAN HOINS: Absolutely, and I think that time line that we did on the spreadsheet was pretty indicative of that. It goes day by day. The quickest a first-class city can annex, by holding multiple meetings, with all the publication requirements and notices, is 14 days. [LB984]

SENATOR LATHROP: Is the argument here just that it's cumbersome and that it is time-consuming, or is there another reason why we would pass this? [LB984]

DAN HOINS: The real purpose and intent on Papillion's behalf--and I can't speak for everybody else that may come--is just one of fairness and equality. I will tell you from experience that it is a very labor-intensive process and costs thousands of dollars for first-class cities, in publications of maps and notices and hearings in the process that we currently have to undergo. Now I can't testify to what it would be with the other cities, because I've never worked in that environment. But it is very labor intensive and costly for first-class cities to do an annexation. [LB984]

SENATOR LATHROP: Is that a bad thing? I mean, I understand that it takes a lot of effort for a city of the first class to annex, but is that a bad thing, as a matter of policy? [LB984]

DAN HOINS: No, Senator. I wouldn't say it's a bad thing as a matter of policy. I think the concern here is, if it's good for first-class cities, then it should be good across the board. [LB984]

SENATOR LATHROP: Okay, thank you. [LB984]

SENATOR FRIEND: Any further...Senator White. [LB984]

SENATOR WHITE: So would you have a problem if the law, this restrictive annexation laws were applied to all cities, and you were not relieved of it? Is it disparity that bothers you, or that it's difficult? [LB984]

DAN HOINS: The disparity, Senator White, and if you took the left column and applied it across the board, quite frankly, that would be perfectly acceptable to the city of Papillion. [LB984]

SENATOR LATHROP: All right. [LB984]

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SENATOR FRIEND: Senator Lathrop [LB984]

SENATOR LATHROP: So why is that a concern to you? I mean, if cities of the...that's an interesting approach, that you don't care what it is, as long as it's equal to everybody. What disadvantage are you placed in as a city of the first class under existing law, that you would not be...that you would no longer have to operate under, if everybody was on the same...had the same requirement? [LB984]

DAN HOINS: The real disadvantage today, Senator, is one of timing, to begin with. Again, 14 days on the time line that I gave you, compared to as the way we read the statute one day, where a metropolitan and a primary-class city could potentially...now their city charters may require other things, but what the state has required of them, we read it that they could annex primary and metro cities in one day. And so we believe that's where the disparity is. I think in response to Senator...go ahead. [LB984]

SENATOR LATHROP: Well, the fact that you're not concerned about getting out from under the onerous responsibilities as much as you are as making it the same for everybody, what disadvantage are you in? Are you in the Elkhorn situation, where you can be annexed by another city? Well, you can't in Sarpy County, right? [LB984]

SENATOR CORNETT: Not yet. [LB984]

SENATOR LATHROP: Not yet anyway. (Laughter) [LB984]

DAN HOINS: We're over 10,000 people, unless that changes, but I'm not sure I understand your question fully. [LB984]

SENATOR LATHROP: Well, you're...I'm looking for the purpose of the bill, and you said it's onerous, it's expensive, it takes time, and then you answer Senator White's question--we don't care what the rule is, as long as it's the same for everybody. So there must be something you're trying to avoid, right, by having the rule the same for everybody? You don't care what goes on in the city of Omaha, as long as they don't come across the county line, right? [LB984]

DAN HOINS: Well, that's a fair statement. But in direct response to your question, as long as each entity or class of city...the purpose is that we all are playing by the same rules, there's all the same requirements whether you're a city of 10,000 or a city of 4,000 in the process. That's the purpose and the goal of this legislation. [LB984]

SENATOR LATHROP: But the fact that you want everybody on the same...with the same responsibilities if they want to annex...maybe it goes directly to the question Senator Friend was asking, and that is, do you want to be able to capture cities of the

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primary class before they can annex somebody else faster than you can get to them?
[LB984]

DAN HOINS: It's probably easier for me to answer that by saying, we don't want to be put at a disadvantage in any annexation process. I don't know if I can predict, because...
[LB984]

SENATOR LATHROP: And maybe you've answered the question, and that is if you and Springfield, somebody like that, a smaller city, are looking at the same real estate, you want to be able to get it. I mean, you signal your intention and a smaller community can go get it before you can. [LB984]

DAN HOINS: Equal footing for Springfield and Papillion. That's the purpose and the objective. [LB984]

SENATOR LATHROP: Okay. I now understand your rationale. [LB984]

SENATOR FRIEND: Senator Cornett. [LB984]

SENATOR CORNETT: I just wanted to clarify that you are here testifying for all...
[LB984]

DAN HOINS: The city of Papillion. [LB984]

SENATOR CORNETT: Yes, but you're part of a coalition of all the...of Sarpy County mayors, correct? [LB984]

DAN HOINS: That's correct, Senator. [LB984]

SENATOR CORNETT: And Sarpy County has had a lot of problems in the recent past with annexation issues. [LB984]

DAN HOINS: Well, Papillion certainly has. [LB984]

SENATOR CORNETT: Fair enough. Thank you. [LB984]

SENATOR FRIEND: Thank you. Any further questions from committee members? I see none. Thank you, Mr. Hoins. Next person in favor of LB984. [LB984]

TIM GILLIGAN: Good afternoon, Mr. Chairman and members of the committee. My name is Tim Gilligan, G-i-l-l-i-g-a-n, and I'm the mayor of Gretna. We're a second-class city. We're the fastest growing town in the state the last six years, I believe it is, and we are about a thousand away from being able to declare ourselves a first-class city at

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5,000. Right now we're right at 4,000, and obviously, housing is down, so how long will it take to get that extra thousand is anybody's guess. But I'm here just to, on behalf of the other mayors and to back up what Dan Hoins said, was that you know, right now for us we publish, we go to the planning board, it's approved, it comes to the council, we have to have three readings, and that we can annex after the third reading. I...the step...when we become a first-class city, there is a ten-day, if I understand the law right, there's like a ten-day delay between the planning board and when the city council can first take up that proposal of annexation. And so what we're asking for is just to have, as Mr. Hoins said, just to have a level playing field so that the rules are the same for first, second, and villages. [LB984]

SENATOR FRIEND: Thank you, mayor. Are there any questions for Mayor Gilligan? Seeing none, thanks for the testimony. [LB984]

TIM GILLIGAN: Thank you. [LB984]

SENATOR FRIEND: Next proponent. [LB984]

GARY KRUMLAND: (Exhibit 2) Senator Friend, members of the committee, my name is Gary Krumland, it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB984. We do support what LB984 is doing, to try to relieve the first-class cities of some of the burden, some of the expensive processes in annexation, so that they will have the same process as cities of the second class and village, and closer to the primary- and metro-class cities. The handout I'm having is some other statutes that aren't amended by this bill, but they do apply to cities of the first class. We've gotten some questions of, well, if you adopt this, then cities of the first class won't have to do anything, and I know Senator Cornett mentioned this, and I just wanted to show the actual language. The...16-404 is a statute that applies to cities of the first class. It provides that when they adopt an ordinance--and an annexation has to be adopted by ordinance--that cities have to read an ordinance on three different days, unless it's waived by three-fourths of the vote. However, if you look on subsection two, annexation cannot be suspended. So if it's an annexation ordinance, it has to be read on three separate occasions. So there is a process there that a city of the first class in adopting an annexation would have to have that on the agenda, give notice for at least three different meetings. And then the second statute I've included is 19-929, which has to do with planning commissions, and this applies to cities of the first class, second class, and village, and the underlined part shows that the...it says the governing body, city council of a first-class city, cannot take action on matters relating to, and I'll skip to annexation, until the planning commission has given a recommendation to the city of the first class. So these statutes are current law. They still will be in effect, so there is a process that cities of the first class will have to go when they annex. What we're looking for in LB984 is those additional requirements that were imposed on cities of the first class that aren't imposed on cities of the second class and

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village. It's my understanding that these were imposed a few years ago, and I can't tell you the exact date, that there was a problem, I think, in the city of Hastings, where in 1989, when the city of Hastings was trying to push the envelope and a couple of senators thought they were going too far and, I won't say "punish them," by doing this, but thought that they should do this, and it ended up affecting all cities of the first class. I think since that time, though, these other provisions have been put into place for all cities, and so I think what we would like is just to have all of these cities below a population of 100,000 to have the same process for annexation. And so we do support LB984. [LB984]

SENATOR FRIEND: Okay, thank you, Mr. Krumland. Any questions from committee members? I see none. Thanks for the testimony. [LB984]

GARY KRUMLAND: Um-hum. [LB984]

SENATOR FRIEND: Any more proponents? Anyone else in favor of LB984? Can I see a show of hands of any others in the room wishing to testify on LB984? Thank you. [LB984]

JOE MANGIAMELLI: Senator Friend and members of the Urban Affairs Committee, my name is Joe Mangiamelli. I am the city administrator for the city of Columbus. We are also in support of... [LB984]

SENATOR FRIEND: Joe, can you spell your name for... [LB984]

JOE MANGIAMELLI: Excuse me. I'm sorry. M-a-n-g-i-a-m-e-l-l-i, city of Columbus. We are in support of LB984 for the reasons that have been stated. I'm glad that Mayor Gilligan was here this afternoon, because annexations that his city attempted are now...have been through the courts and are, in effect, problematic for other cities now. We have a strip of roadway that we constructed and are finishing, utilizing \$17 million in federal and local monies, which is an arterial around the northern edge of Columbus. The...Section 16-117(1) states that before a city can annex, the property has to be contiguous or adjacent, including streets or highways. Now we have acquired with federal aid and with local funds the land upon which this arterial has been built. The arterial sits approximately, in some cases a quarter, in some cases a half, in some cases maybe three-quarters of a mile outside of our city limits. For the purposes of providing public safety and law enforcement specifically, we would like to annex the roadway so that we can maintain it. Our county doesn't want to have the maintenance responsibility, our county sheriff doesn't want to patrol it, so it falls back to the city of Columbus. The statutes the way they are written, with strictly contiguous and adjacent, is being strictly enforced by the courts as a result of the Papillion and Gretna cases. So we're kind of in limbo. We've spent \$17 million to build a roadway that we should be maintaining, that we should be patrolling for public safety purposes, but the law as it's

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being interpreted by the courts, will not allow us to accept that responsibility. Again, our county does not want that responsibility. This arterial is scheduled to open up, at least the first leg, this spring, so we don't know who's going to maintain, we don't know who is going to patrol. We hope that we'll be able to figure out a way that perhaps our county will agree with us and support our annexation, which is not the case as has happened in Sarpy County, and thus some of this legislation coming forward. I appreciate Senator Cornett for bringing this forward on behalf of the first-class cities, and at some point we may come, as the city of Columbus, we may come back and ask for a further clarification, if that's possible. Thank you. [LB984]

SENATOR FRIEND: Thank...any questions from committee members? Senator White. [LB984]

SENATOR WHITE: Yes, sir. Are you indicating that this bill will somehow relax the adjacent or contiguous standards? [LB984]

JOE MANGIAMELLI: No, it will not. [LB984]

SENATOR WHITE: Then how does that apply? [LB984]

JOE MANGIAMELLI: As I closed I said we may need to come back to you and get a clarification on that, sir. [LB984]

SENATOR WHITE: Okay. [LB984]

SENATOR FRIEND: Any other questions from committee members? [LB984]

JOE MANGIAMELLI: Thank you. [LB984]

SENATOR FRIEND: Thank you, Joe. Just to check again--any more proponents, those in favor? Is there any opposition? No opposition? Anyone wishing to testify in neutral? Opposition? [LB984]

MICHAEL NOLAN: No opposition, just neutral. [LB984]

SENATOR FRIEND: Neutral? Step forward. Neutral capacity. [LB984]

MICHAEL NOLAN: Senator Friend and members of the committee, my name is Michael Nolan. I'm the city administrator in Norfolk. I didn't intend to testify, but I wanted to just clarify for Senator Lathrop and maybe for Senator White and yourself. First of all, we don't have a whole bunch of people that queue up to come out to the state, so I'm not one of those representative communities that go around bashing Omaha. Omaha needs to grow. I would encourage Senator Lathrop to maybe take a look at the case, the court

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case that was held on that, to see what the judge was looking at, because I think what you're going find is that the judge felt that some of the officials in Papillion had violated the open meetings law and hadn't told the truth, and I would suggest to you probably it was because they were trying to protect their interests and the same time that the community of Omaha was trying to protect its interests. And Omaha had a better annexation set of policies than this community did. I happened to be at the hearing in 1989 where Hastings got taken to the woodshed. On that occasion what occurred was that the annexation had kind of been more of gerrymander than it had a contiguous annexation, and we all ended up having a much more restrictive set of annexation policies applied to cities of the first class as a consequence of that. So really what needs to occur in LB984 is what makes good sense from a growth standpoint and from a process standpoint, as to how you annex when you're going to go out of extraterritorial jurisdiction, and it needs to apply to everybody the same way, including Omaha. I mean, Omaha has as much right to grow as any community in the state does, and I'm just speaking for me. I know that some of you sitting around the table this may strike a nerve with, but I personally don't see anything wrong with annexation for Omaha across county lines. I'm just speaking for Mike Nolan, citizen, not for the city of Norfolk. But whatever we end up with, let's do it in a way that makes sense for all of the cities at the same time, use the same kind of a process. Thank you. [LB984]

SENATOR FRIEND: Thank you. You might...any questions for Mr. Nolan? [LB984]

MIKE NOLAN: Okay. [LB984]

SENATOR FRIEND: Thanks for the testimony. That was neutral? Senator Cornett, if she wishes to close. Senator Cornett actually waives closing. That will close the hearing on LB984. I see Senator McDonald, and with that I think we'll open on LB997. Hello. [LB984]

SENATOR McDONALD: (Exhibit 3) Hello. Chairman Friend and members of the Urban Affairs Committee, I'm Senator Vickie McDonald, representing the 41st Legislative District. LB997 make several changes to the Local Option Municipal Economic Development Act created by the passage of LB840 in 1991. This bill was developed by the Nebraska Economic Development Association. NEDA is an association of professional economic developers for Nebraska cities, counties, and other public entities. Although the Local Option Municipal Economic Development Act has been tweaked over the years, there are parts of the act that need to be updated and modernized to fit with Nebraska's ever-changing economy. LB997 addresses the high-need areas of economic development in our state--tourism, workforce retention and expansion, and housing. In addition, LB997 keeps the policy decisions in the hands of local citizens who know their needs better than we do. LB997 does the following: The bill increases the amount of funds a city, village, or county can collect and appropriate from local tax dollars for voter-approved economic development projects. It's currently

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four-tenths of 1 percent of the taxable valuation of the political subdivision. LB997 increases it to five-tenths of 1 percent of the taxable valuation. While we are working on this bill we actually talked about eliminating the restriction completely. Excess funds collected over the statutory limitations must be deposited into the city's general funds. Local option municipal economic development plans are approved by voters to fund economic development and not provide additional funding to local government. LB997 expands the list of economic development programs to include community marketing, private tourism developments, workforce retention and attraction. It sets a limit on the amount the cities and villages can use for housing projects at 30 percent of revenue raised in any 12-month period. LB997 eliminates the 20 percent over five years restriction on the amount a city with a population between 2,500 and 10,000 can devote to retail trade. The 40 percent annual restriction on retail trade remains in place. It eliminates top-end restrictions on what can be appropriated each year. Cities are already restricted in the amount of revenue that they can raise, based on the taxable value of the city, the amount in the economic development plan as approved by the voters. LB997 eliminates the requirement that a separate bank account be set up and maintained for each loan made from the loan fund. With the widespread use of computers, funds can be placed in one account and easily tracked using readily available software programs. LB997 does not change the requirement that economic development programs must be approved by the voters. Any changes in an economic development program must be taken back to those voters. LB997 makes minor adjustments in a 17-year-old program to enable the program to function more effectively to serve the needs of the 44 cities and villages that currently have economic development plans funded by voter-approved local option sales taxes, or local property taxes. Several of the professionals that developed LB997 will speak following me. If you have specific questions about these programs and how they work, would you please reserve those questions to those that work with it everyday. That way you will get a better and more correct answer than I possibly can give you. I have a letter of support for LB997 from Richard Baier, the director of the Department of Economic Development, for you. And thank you for your time and interest. Please vote to send this to General File. [LB997]

SENATOR FRIEND: Thank you, Senator McDonald. Your last points there--usually if I say something like that, it's like a recipe to just attack me. (Laughter) Are there any questions from committee members? I see none. [LB997]

SENATOR McDONALD: Thank you. [LB997]

SENATOR FRIEND: Thank you. Can we start with proponents, obviously, of LB997? How many folks wishing to testify, total, in the room, on LB997? Okay, thanks. Welcome. [LB997]

BETHANNE KUNZ: (Exhibits 4, 5, and 6) Thank you. Senator Friend and members of

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the Urban Affairs Committee, my name is Bethanne Kunz, K-u-n-z, and I am here to testify in support of LB997 on the behalf of four organizations. Those organizations are the Nebraska Economic Developers Association, the Nebraska Chamber of Commerce, Valley County Economic Development board, and the city of Ord, Nebraska. The page is passing around three letters. Those letters are support letters for this bill from NEDA, the city of Ord, and Valley County Economic Development. We asked Senator McDonald to introduce this bill several months ago, because our community passed LB840 back in 2003, and it has been a very useful tool for us for economic development. And as Senator McDonald mentioned, there are 44 communities in the state of Nebraska who have passed this bill by the vote of local people. And we are...I am here, excuse me, to testify in support of all the changes that Senator McDonald referred to, but particularly of interest to our local board of directors are two sections. The section dealing with the increase from four-tenths of 1 percent of the city's valuation to the five-tenths of 1 percent, and for our local community in Ord, since the 2002-2003 fiscal year, the city of Ord has collected more sales tax funds than we can appropriate on an annual basis for economic development, because of this four-tenths of 1 percent cap. Since that time a total of \$596,000 in excess funds above the four-tenths cap has had to be transferred to the general fund of our city. At the time we passed this ballot issue we were not aware of that four-tenths requirement, so as you can imagine, it came to a big surprise to all of us in our community. And we are concerned about this, because the intent of our voters...an overwhelming majority of our voters voted to approve this fund to support economic development, and that was the intent of it. It was not intended to support the city with excess funds. The additional section that we are in support of is to eliminate the requirement that all sales tax...excuse me, all loans be required to be placed into a separate financial account. Currently our community, our city council, has approved loans to 17 businesses. Three of those businesses have received two loans, so that's a total of 20 loans that have been issued, and our city clerk has opened 20 separate checking accounts which she has to reconcile separately each month, and as Senator McDonald referred to, it would be very easy to track those all in one account, track each loan. So with that, I believe all the changes in LB997 keep the control locally, and it's totally up to the intent of the voters how they wish to use those funds. And thank you for your time. [LB997]

SENATOR FRIEND: Thank you, Ms. Kunz. Are there questions from the committee members? I don't see any. [LB997]

BETHANNE KUNZ: Okay. [LB997]

SENATOR FRIEND: Thanks for the testimony. [LB997]

BETHANNE KUNZ: Thank you. [LB997]

SENATOR FRIEND: Next proponent. [LB997]

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DAVE BARTHOLET: Good afternoon, committee members. My name is Dave Bartholet, and that's spelled B-a-r-t-h-o-l-e-t. I'm the director of visitor center services for the village of Boys Town, and I'm also the legislative chair for the Nebraska Travel Association. NETA is an organization here to promote and protect and enhance the economic interests of tourism industry within the state of Nebraska. We're made up of private business owners, convention and visitor bureaus, attractions, nonprofits. We're the primary voice of tourism in Nebraska, outside of the Nebraska Department of Tourism, testifying today in favor of LB997 on behalf of NETA and the third largest earner of revenue for them outside of the state, after agriculture and manufacturing, and that's tourism. And LB997, by adding the language for the qualifiers for economic development program to allow contracting such to an outside entity to include private tourism developments, we're basically supporting tourism in Nebraska. We're giving elected officials the choice of taking advantage of the tourism ministry. Tourism is bringing in jobs and monies to communities, where 42,000 jobs are attributed to the travel spending in Nebraska. Travelers have spent almost \$3.3 billion in Nebraska during 2006 trips. A lot of them were overnight stays, paid accommodations. We feel that programs to grow private tourism sector, this will give more reasons for visitors to spend money in Nebraska. Tourism is economic development; tourism brings jobs and brings money. That's all I have. [LB997]

SENATOR FRIEND: Thank you, Mr. Bartholet. Are there questions from committee members? [LB997]

DAVE BARTHOLET: Happy now! Thank you very much. [LB997]

SENATOR FRIEND: Thanks for coming down, sir. [LB997]

DAVE BARTHOLET: If you guys haven't been out to Boys Town, at least stop on by. (Laughter) [LB997]

SENATOR FRIEND: We will. Thanks for the invite. [LB997]

DAVE BARTHOLET: No problem. [LB997]

SENATOR FRIEND: That was good. Next proponent. [LB997]

GARY KRUMLAND: (Exhibits 7 and 8) Senator Friend, members of the committee, my name is Gary Krumland, last name is spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB997. Most of the testimony that you've heard so far has dealt with what everybody terms LB840, the Local Option Municipal Economic Development Act, where cities implement the constitutional amendment to develop an economic development plan, and the voters vote to

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allow cities to spend either property tax or sales tax on economic development issues. The bill also does something else, though, which we also support, and that's in Section 1. Section 1 is generally termed and it's labeled the Municipal Publicity Act, and this applies not only just to those 44 cities who have adopted the LB840 plan, but to all cities and to counties. And it gives some limited authority to cities and counties to do economic development. It's somewhat limited. It basically just gives publicity to the city to try to draw people and businesses into the community, but it does increase the amount that can be spent on that activity, and so we do support the whole bill, but I just wanted to point out that it does have broad effect, and it will be beneficial to all cities and to counties, too. So with that, I'll be happy to answer any questions. [LB997]

SENATOR FRIEND: Thank you, Mr. Krumland. Questions from committee members? Yeah, Bill, go ahead. [LB997]

BILL STADTWALD: I just want to clarify this, because I think it's important. The lady from Valley talked about lifting the lid, the four-tenths of 1 percent to the five-tenths of 1 percent in the section that you referred to. She's also referred to that as if that operated as a limit within LB840. Is that how you read it? [LB997]

GARY KRUMLAND: No. There is also a section in here that...and let's see if I can find it, because I think she was referring to...within LB840 there is a section that...let's see. Yeah, if you look on page 6, line 10, there is a similar change in the LB840, in Section 18-2717, and so this is the one that would apply to those cities that have adopted the economic development program. [LB997]

BILL STADTWALD: Okay. [LB997]

GARY KRUMLAND: And so that's...so there's actually two things going on, but I just want to point out that this one on page 6 would apply to economic development plans under LB840. Section 1 would apply to all the other cities and counties and allow them to do some municipal publicity. [LB997]

BILL STADTWALD: I just wanted to make sure the record is clear. [LB997]

GARY KRUMLAND: Yeah, yeah. Okay, and that's...and I probably should have distinguished the two. [LB997]

SENATOR FRIEND: Are there any more questions for Gary from committee members? Gary, really quickly, since...I could have asked Ms. Kunz, but I didn't want to pick on the wonderful guy from Bellevue who invited us over. Mr. Bartholet, I'll pick on you. I passed a note over to Bill Harris. I said, who is the loser of that one-tenth of a percent. I mean, this is a numbers game, right, Gary? Somebody is going to lose that. Either that or...I mean, this isn't a shell game. I mean, the money has got to be diverted. [LB997]

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GARY KRUMLAND: It depends on...I mean, in either situation, it raises it in two different situations. It just gives the...well, on Section 1, which talks about what everybody labels the Municipal Publicity Act, it would be up to the governing body of the city, village, or county to allocate and budget for that, so I mean, it would either be, you know, take it from something else--raise taxes--or do whatever. But it would be part of the budget process. In the LB840 thing, it would be the same, although you would have additional steps where the amount would have to be included in the plan that is developed under the bill and approved by the voters. So I mean,... [LB997]

SENATOR FRIEND: Yeah, I guess my point is... [LB997]

GARY KRUMLAND: ...it would come from the local government resources. So it would be... [LB997]

SENATOR FRIEND: Right, I guess my point is...you're squeezing somebody's general fund here. [LB997]

GARY KRUMLAND: Yeah, either...yeah. I mean, but it would be up to the local governing body or the citizens of that community to make that decision... [LB997]

SENATOR FRIEND: Right. [LB997]

GARY KRUMLAND: ...about how to allocate those resources. [LB997]

SENATOR FRIEND: Right. Okay. Any other questions from committee members? I don't see any. Thanks, Gary. Next proponent? [LB997]

KARL ELM SHAEUSER: Good afternoon, Senator Friend, committee members. My name is Karl Elmshaeuser, E-l-m-s-h-a-e-u-s-e-r, and it's Karl with a K. I'm representing the Rural Development Commission today, and just testifying on behalf that the Rural Development Commission does support LB997. [LB997]

SENATOR FRIEND: Thank you. Are there any questions from committee members? Thanks for coming down. Any more proponents? Any opponents? Anyone wishing to testify in a neutral capacity? Senator McDonald, if you wish to close. [LB997]

SENATOR McDONALD: I just want to help clarify that one-tenth percent. Right now that goes into their general fund, but when the voters decide what they want to fund with their economic development dollars, that's their decision what they want to do with that. Anything more than the four-tenths percent goes to their general fund. It would just be allowing them to use one-tenth percent into that economic development plan that they so voted for. So... [LB997]

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SENATOR FRIEND: So you're saying, Senator McDonald, that there could be communities fighting over that, but it's available to them if that would want to do that? [LB997]

SENATOR McDONALD: What I am saying, when the voters approve what plan that they're using these dollars for, they only can use four-tenths of a percent. [LB997]

SENATOR FRIEND: Up to four-tenths, yeah. [LB997]

SENATOR FRIEND: Anything else has to go under general fund, but this allows them to use that one-tenth percent in that project, which they voted for in the first place. They didn't vote for the money to go into the general fund. They voted for that project that they wanted that money to go to. [LB997]

SENATOR FRIEND: Thanks. [LB997]

SENATOR McDONALD: Do you understand what I'm saying? [LB997]

SENATOR FRIEND: Yeah. Are there other questions for Senator McDonald from committee members? Thanks, I don't see any. Oh, you can go ahead. I'm sorry. [LB997]

SENATOR McDONALD: I think I'm next. Am I next? [LB997]

SENATOR FRIEND: You're next to close. I figured you were done closing. [LB997]

SENATOR McDONALD: Oh. I am closed. [LB997]

_____ : She has another bill. [LB997]

_____ : No, she's got the next bill. [LB997]

SENATOR FRIEND: Oh, you are next. You can stay there if you'd like. (Laughter) [LB997]

SENATOR McDONALD: Okay. Well, if you're closing the hearing on that one, I could reenter. Okay. (Laugh) [LB997]

SENATOR FRIEND: It hasn't been a long day, but it feels like it has. [LB997]

SENATOR LATHROP: Yes, it does! [LB997]

SENATOR FRIEND: LR229CA. Senator McDonald, to open. [LR229CA]

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SENATOR McDONALD: Thank you. Chairman Friend and members of the Urban Affairs Committee, I'm Senator Vickie McDonald, representing the 41st Legislative District. LR229CA is a proposed constitutional amendment that, if enacted, would allow the Legislature to give cities and villages more flexibility to fund economic development programs approved by voters. Article XIII, Section 2, of the Nebraska Constitution currently allows the Legislature to authorize cities and villages to use local source of revenue for an economic or industrial development project or program, subject to voter approval. Under this section, local sources of revenue means funds raised from general taxes only. The Local Option Municipal Economic Development Act, LB840, was adopted as a result of this constitutional provision. If LR229CA were enacted, it would remove the limitation on the source of revenue that cities and villages could use for economic development. The Legislature could allow cities and villages to utilize funds for municipal economic development from other sources than general taxes such as surplus utility funds, if approved by the voters. This amendment would allow cities and villages more flexibility in funding local economic development. If a city is at its 1.5 percent sales tax limit, or if they are at their property tax limit of 45 cents, other revenue could be used if approved by voters. Enactment of this constitutional amendment would require legislation in 2009 to implement the change. I'm carrying this legislation for the League of Nebraska Municipalities. If you have technical questions, please ask them--get me off the hook again--and those that follow me in support. Thank you for your time. [LR229CA]

SENATOR FRIEND: Thank you, Senator McDonald. Are there questions for Senator McDonald from the committee? I don't see any. [LR229CA]

SENATOR McDONALD: Thank you. [LR229CA]

SENATOR FRIEND: Thanks. First proponent of LR229CA. [LR229CA]

GARY KRUMLAND: (Exhibits 7 and 8) Senator Friend, members of the committee, my name is Gary Krumland, it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LR229CA. As Senator McDonald mentioned, this is a proposed constitutional amendment to the provision in the constitution that allows cities and villages to spend local sources of revenue on economic development projects. What is being handed out: One is a letter of support for the resolution from the Nebraska Economic Developers Association. The second is several pages from the Department of Economic Development's Web site which talk about the process, and I'd like just to give you a little background. In 1990 the voters approved Article XIII, Section 2, of the constitution, and it gave the Legislature the authority to adopt legislation that allowed cities to develop an economic development plan and implemented upon the voters' approval in the city. What it allowed them to spend was general sources of revenue, which is considered the property tax or the

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sales tax. In 1991 LB840 was adopted; that implemented it, and it's been amended several times since then. The...and that's why it's very often referred to as the LB840 program. I think that's quicker than the Local Option Municipal Economic Development Act. There's been several mentions today about the 44 cities who adopted it. I guess I included this basically so you had a list of those cities that have done that. Plus, this bill outlines some of the activities that can be funded and also the process that a city has to go through to implement the program, and I won't go through this all, but basically the city has to appoint a committee. The committee develops an economic development plan. There are several hearings held on the plan. The city council eventually, after going through the planning commission, adopts a plan and submits a plan to the voters. So the voters have to approve both the plan on what the money can be spent on, the amount of money to be spent, and the sources of revenue. Virtually every city so far has used the sales tax. Most of them have either adopted or increased their sales tax to fund this specifically. There's been a couple cities who already had a cent and a half, and so they used a general source of revenue. There was one city, I think Nebraska City, originally did vote additional property tax for the program, but generally it's been done through the sales tax. What the constitutional amendment is intended to do is to open up the process so that if the Legislature allows--and anything that happens here would have to come through legislation--it would give the Legislature authority to adopt legislation to give local governments--cities and villages--flexibility in finding additional sources of revenue to use for economic development. It's fairly broadly written, but what it would do is the Legislature then could authorize, for example, occupation taxes, surplus utility fees, things like this could go into an economic development program. We have to go through a constitutional amendment because right now, the constitutional amendment does basically limit it to general source of revenue, which is the property tax and sales tax. And so in order to expand it, it does take a constitutional amendment. But even if it does pass, it would take legislation after that, that the Legislature would have to determine what additional sources of revenue could be used. The program has been very successful over the last 17, 16 years. A lot of cities have adopted it. They've been able to do good things. As Senator McDonald mentioned, though, there are situations where they would like to have the ability to use funds other than the sales tax or the property tax to fund some of these activities. And this is the start of the process to allow that to happen. I'd be happy to answer any questions. [LR229CA]

SENATOR FRIEND: Thank you, Mr. Krumland. Are there questions from committee members? Senator Rogert. [LR229CA]

SENATOR ROBERT: Gary, when this legislation was drawn up back whenever it was, was there a reason why we specifically prohibited them from using state and federal money? [LR229CA]

GARY KRUMLAND: I wasn't here at the time, so I can't tell you. I'm assuming...I think there was some discussion at least of...about they should be able to use utility funds,

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things like that. I'm assuming part of it was, since it was brand new and nobody knew what was going on, they wanted to have some regulation in it, some things in the constitution to prevent it just from being spread willy-nilly, you know, that... [LR229CA]

SENATOR ROBERT: If we were to lift, you know, these restrictions, is there a possibility for misuse of funds that aren't intended for those things, and cities actually, possibly putting themselves in the red because they used their state aid to a municipality for a development type of project that had gone bad? [LR229CA]

GARY KRUMLAND: I mean, there's always a possibility that somebody could do that. I would say there's a couple...(inaudible) three things...couple things that would probably help to prevent that. One is the constitutional amendment is not self-executing. Anything that happens would have to go through legislation. And secondly, anything that happened would have to go through a vote of the people, so the voters would have to approve it. So there are steps along the way that have to be taken. And I will take responsibility for drafting this by taking out that language. It was drafted very broadly, the intent. I don't know that it's necessarily to use state and federal funds for this, but to use other sources of local revenue. So if that is an area of discomfort, that would be something that could be dealt with. But... [LR229CA]

KENT ROBERT: Okay. Yeah, thank you. [LR229CA]

SENATOR FRIEND: Any further questions from committee members? Gary, there's been a rash of failures on the ballot over about the last eight years. I mean, is there anything different about this? Or is there an effort afloat to, you know, to work through...I mean, a rash of failures. Ballot initiatives fail,... [LR229CA]

GARY KRUMLAND: Um-hum. [LR229CA]

SENATOR FRIEND: ...hand over fist. What do you...is there anything...is there an idea here that there's going to be, you know, maybe a push? Are there folks behind this that maybe could help this one along? I know the league is, but... [LR229CA]

GARY KRUMLAND: Well, I mean, assuming it gets out there, we...since we generated it and asked Senator McDonald to introduce it, we will be out there trying to get it adopted. You know, we would do polling to see what it takes and those sorts of things. So when we ask the Legislature to do something like this, we will make the commitment to do what we can to make sure it gets a fair hearing. [LR229CA]

SENATOR FRIEND: Fair enough. Any further questions from committee members? I don't see any. Thanks. [LR229CA]

GARY KRUMLAND: Um-hum. [LR229CA]

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SENATOR FRIEND: Next proponent. [LR229CA]

MICHAEL NOLAN: (Exhibit 9) Senator Friend, members of the committee, my name is Michael Nolan. You spell the last name N-o-l-a-n. I'm the city administrator of Norfolk. The league sought to have the Legislature introduce this at the request of the city of Norfolk. The city of Norfolk and the city of Columbus were the originators of LR11CA that eventually led to LB840. I say that only to you so that you can see that we've had an ongoing interest in this. Probably in the room beside myself, the only one that remembers any of that was Bill Stadtwald. The interesting thing about it is... [LR229CA]

SENATOR FRIEND: I don't think he remembers, Mike. (Laughter) I'm just kidding. Continue. [LR229CA]

MIKE NOLAN: Okay, well, I just say that because we all got...we have grey hair and we should, I think when it comes to economic development, explain why some of it is grey. In any event, I think the reason, quite honestly, Senator Rogert, that the thing was made as restrictive as it was is that we had a lot of what I would call mental models to overcome at that point in time. There was a tremendous aversion to having...LR11CA, it's predecessor, I think, was LR21CA. [LR229CA]

BILL STADTWALD: LR19CA. [LR229CA]

MIKE NOLAN: Was it 19 or 21? The numbers get mixed up after awhile. (Laughter) [LR229CA]

BILL STADTWALD: I did remember. Oh, I remember! [LR229CA]

MIKE NOLAN: Well, I do want to tell you what happened, because it's kind of ironic, and I'm sure he wouldn't mind having me relate this story to you, but Senator Don Wesely was on...we had done our vote counts and we knew how close it was, and met with him before the floor debate began, and were not able to persuade him of the importance of this, because there was a huge inference that, in fact, this would lead to plundering like the railroads had done a hundred years before that. Of course, none of that happened, and the ironic thing was that I'm quite sure that when Senator Wesely became Mayor Wesely, that he wishes that he'd had an LB840 program when it came time to talk about what was going to happen to the Gallup issue. Having said that, there have been a number of occasions where LB840 in communities has been on the ballot three times and been defeated, because a lot of it, I think, is because people have aversion to anything that could have some impact on property tax, notwithstanding the fact that Nebraska City has been the only community that has ever done one of these with property tax. Property tax is a problem in the state of Nebraska, has been for a long time. Now I just showed you in the bottom of the second frame what the impact would

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be if you had a ten-year LB840 program that was capitalized with \$750,000 annually. It would have a...about a \$73 impact on a \$100,000 house in Norfolk, and in a smaller community, a lot bigger impact. So I don't think that there are going to be very many communities that are going to go and let one of these things pass with property tax. It's going to be sales tax, and when you have the kind of infrastructure problems a lot of us have--Lincoln's got those problems, Omaha's got those problems, certainly Norfolk's got those problems, and I'm sure any city of the first class would tell you they do--sales tax is probably no longer the option, either. We've suggested that you consider this because, in fact, it seems logical to me that in a city that has any size, if it has some utilities and it's gone to the community with a redevelopment plan that they have to approve, which is part of the LB840 process, if the voters of that community say that they're willing to have the impact of it parsed up into some of their utilities and their general fund, that it makes more sense to do it that way than it is to put it all on the property taxpayer. And it would be an option. I mean, if the mayor and city council of that community or the citizens of that community who wanted to do it by initiative petition didn't want it to be from any source but sales or property tax, they would certainly have the prerogative to do that. I keep saying it over and over again. I don't mean to sound like I'm some kind of a negative person, but we don't have a whole lot of people in Nebraska queueing up to--outside of Nebraska--queueing up to come out here. Omaha grows pretty well; Lincoln, sometimes. The rest of us--the further west you go, the more difficult it gets. This LB840 program, what we can see in retrospect over the history of it, is it's made a big difference. It's given us some tools to operate. I think what this does is it just is suggesting that we need to have LB840 to be more flexible, and I think you'll see, if it is more flexible, that there will be more communities that will be able to get it passed the first go-around, once it's on the ballot. I'd answer any questions, if you have any. [LR229CA]

SENATOR FRIEND: Thank you, Mr. Nolan. Are there questions from committee members? I see none. Thanks for the testimony. Next proponent? Is there any opposition? No opposition? Anyone wishing to testify in a neutral capacity? Senator McDonald, to close. Senator McDonald waives closing. That will close the hearing on LR229CA and the hearings for the day. [LR229CA]

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Disposition of Bills:

LB984 - Advanced to General File.
LB997 - Indefinitely postponed.
LR229CA - Advanced to General File.

Chairperson

Committee Clerk